



# House of Representatives

General Assembly

**File No. 14**

January Session, 2017

Substitute House Bill No. 6992

*House of Representatives, March 2, 2017*

The Committee on Aging reported through REP. SERRA of the 33rd Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

## ***AN ACT PROTECTING THE INTERESTS OF CONSUMERS DOING BUSINESS WITH FINANCIAL PLANNERS.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1       Section 1. (NEW) (*Effective from passage*) (a) For purposes of this  
2       section and section 2 of this act, (1) "fiduciary duty" means a duty to  
3       act with prudence in the best interests of a consumer with undivided  
4       loyalty to such consumer, and (2) "financial planner" means a person  
5       offering individualized financial planning or investment advice to a  
6       consumer for compensation whose advice to the consumer is not  
7       otherwise regulated under the Employee Retirement Income Security  
8       Act of 1974, the Investment Advisers Act of 1940 or the Securities  
9       Exchange Act of 1934, as said acts are amended from time to time.

10       (b) No financial planner shall, in connection with an agreement with  
11       a consumer to provide financial planning or investment advice for  
12       compensation, use a certificate, professional designation or form of  
13       advertising expressing or implying that such person has special  
14       training, education or experience in advising or serving senior citizens,

15 unless such person has obtained a certificate, title or designation as  
16 described in section 36b-4 of the general statutes.

17 (c) A financial planner shall disclose to a consumer, upon request,  
18 whether or not such financial planner has a fiduciary duty to such  
19 consumer for each recommendation such financial planner makes to  
20 such consumer.

21 Sec. 2. (NEW) (*Effective from passage*) The Commissioner of  
22 Consumer Protection, in consultation with the Banking Commissioner,  
23 shall provide on the Internet web site of the Department of Consumer  
24 Protection, a link to a list of (1) financial planners and other financial  
25 planning professionals doing business in the state who are required to  
26 act in a consumer's best interests pursuant to their certification by the  
27 Certified Financial Planner Board of Standards, and (2) information on  
28 requirements for investment advisers pursuant to chapter 672a of the  
29 general statutes. The Commissioner of Consumer Protection shall also  
30 include on the department's Internet web site information concerning a  
31 consumer's right to ask for disclosure from financial planners or other  
32 financial planning professionals about fees and compensation as  
33 required under applicable state and federal law.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	New section
Sec. 2	<i>from passage</i>	New section

**Statement of Legislative Commissioners:**

In Section 1(b), "in accordance with the provisions of section 36b-4" was changed to "as described in section 36b-4" for accuracy, and Section 3 was deleted to eliminate redundant language.

**AGE** Joint Favorable Subst. -LCO

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

***OFA Fiscal Note******State Impact:*** None***Municipal Impact:*** None***Explanation***

The bill results in no fiscal impact as the Department of Consumer Protection updates and alters its Internet web site as a normal course of operations.

***The Out Years******State Impact:*** None***Municipal Impact:*** None

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**OLR Bill Analysis****sHB 6992*****AN ACT PROTECTING THE INTERESTS OF CONSUMERS DOING BUSINESS WITH FINANCIAL PLANNERS.*****SUMMARY**

This bill makes various changes affecting financial planners. It:

1. establishes advertising and disclosure requirements for financial planners who are not subject to certain federal laws concerning investment advisors, securities, and retirement products;
2. prohibits these financial planners from expressing or implying special training, education, or experience serving senior citizens unless they meet certain education requirements;
3. requires these financial planners to disclose to consumers, upon request, whether they have a fiduciary duty with regard to each recommendation they make; and
4. requires the Department of Consumer Protection (DCP) commissioner to post on the department's website certain information regarding financial planning professionals and consumers' rights.

EFFECTIVE DATE: Upon passage

**ADVERTISING REQUIREMENTS**

The bill prohibits financial planners from using, in connection with an agreement to provide financial planning or investment advice for compensation, a certificate, professional designation, or advertisement expressing or implying special training, education, or experience in advising or serving senior citizens without meeting certain educational requirements (see BACKGROUND). Existing state law already

imposes this prohibition on individuals involved in securities transactions.

Under the bill, a “financial planner” is a person offering individualized financial planning or investment advice to a consumer for compensation who is not otherwise regulated by the federal Employee Retirement Income Security Act (ERISA), Investment Advisers Act, or Securities Exchange Act.

### **DCP WEBSITE**

The bill requires the DCP commissioner, in consultation with the banking commissioner, to post on the DCP website, a list of:

1. Connecticut financial planners and financial planning professionals required to act in a consumer’s best interest pursuant to certification by the Certified Financial Planner Board of Standards and
2. investment advisers required to act in a consumer’s best interest by the Connecticut Uniform Securities Act.

The DCP commissioner must also include on the website information about a consumer’s right to ask financial planners or other financial planning professionals to disclose fees and compensation as required under state and federal law.

### **BACKGROUND**

#### ***Educational Requirements for Individuals Advertising Experience with Senior Citizens***

By law, individuals offering, selling, or purchasing securities are prohibited, in connection with an agreement to provide financial planning or investment advice for compensation, from using a certificate, professional designation, or form of advertising expressing or implying special training, education, or experience in advising or serving senior citizens unless the individual has met certain educational criteria. They must receive a certificate, title, or designation by completing a course of study that:

1. resulted in an academic degree from an accredited higher education institution in a field related to advising or serving senior citizens, as determined by the banking commissioner or
2. relates to advising or serving senior citizens, as determined by the commissioner, and is provided by an organization accredited by the American National Standards Institute, National Commission for Certifying Agencies, an organization recognized as an accrediting agency by the United States Department of Education, or another organization approved by the commissioner (CGS § 36b-4(c)).

### **Related State Laws**

Existing law regulates the conduct of many financial advisors. For example, the Connecticut Uniform Securities Act (CGS § 36b-2 et seq.) generally prohibits, in connection with the offer, sale, or purchase of a security, individuals from (1) engaging in fraud or deceit, (2) making untrue or misleading statements, or (3) engaging in a dishonest or unethical practice. It also requires “investment advisors” to disclose certain compensation and fee information. Investment advisors advise others regarding securities transactions for compensation and as part of a regular business.

Additionally, Insurance Department regulations prohibit insurance producers (i.e., agents) from using senior citizen specific certifications or professional designations to mislead a purchaser when (1) soliciting, selling, or purchasing life insurance or annuities; (2) providing advice about purchasing or selling life insurance or annuities; or (3) issuing reports or analyses on life insurance or annuities (Conn. Agencies Regs. § 38a-432b-2).

### **COMMITTEE ACTION**

Aging Committee

Joint Favorable

Yea 13      Nay 0      (02/14/2017)